

# **Arizona State Board of Homeopathic Medical Examiners**

## **Minutes of Regular Meeting**

### **January 10, 2006**

#### **I. CALL TO ORDER**

Presiding officer, Charles Schwengel DO, MD(H), called the meeting to order at 9:00 a.m.

#### **ROLL CALL**

##### **Present:**

Charles Schwengel, DO, MD(H)  
Annemarie Welch, MD, MD(H)  
Don Farris  
Garry Gordon, MD, DO, MD(H)  
Todd Rowe, MD, MD(H)

##### **Absent:**

Kathy Patrick

Elizabeth Miles, Assistant Attorney General, Christine Springer, Executive Director and members of the public were also present.

The order of the agenda was changed and Agenda Item No. VI(4) was moved to the first item of business.

#### **VI. 4. General discussion: function and duty of Board members**

Dr. Schwengel began the discussion by noting that a board member's duty was to protect the public and license qualified doctors. He explained that the homeopathic physician represented a considerable expansion of medical skills and offered the public greater choice of healthcare. The special training needed to qualify for the homeopathic license is not limited to homeopathic medicine but also encompasses other modalities defined in ARS §32-2901(22) including acupuncture, nutrition, chelation therapy, orthomolecular medicine and osteopathic manipulation.

He indicated that the board provides recourse for the public to file complaints and the Office of the Attorney General serves as the legal advocate to the Board. The confidentiality of patient records is maintained during deliberations and executive sessions offer the board the opportunity to receive legal advice from its legal advocate, their assistant attorney general. He explained that during an executive session the board can not deliberate matters or make personal comments but can only seek legal advice.

In closing Dr. Schwengel noted that the sunset review process is an opportunity to make changes and address procedures that would make it more responsive to the needs of the citizens of Arizona. In as much as an audit of the board has not been performed in twenty years, the board welcomes the audit process and believes the processes examined by the auditors will benefit from the scrutiny and ultimately, the citizens of Arizona will be better served.

At this point, Dr. Schwengel opened the floor to board members.

Mr. Farris commented that in his opinion the public does not fully understand what the roll of the board is. As a public member, his job is to protect the public by applying the laws governing the board to the processes of licensing and complaint reviews. He noted his personal experience in the value of homeopathic medicine through the effectiveness of treatments received by his own family members.

Dr. Rowe thanked the Office of the Attorney General for their assistance to the Board and for providing clarity in their interpretation of the laws governing the board.

Dr. Gordon stated that there was a national crisis relative to the public's access to affordable healthcare and to choices in the type of care available. The board serves an important roll in regulating alternative healthcare providers.

## **II. REVIEW/APPROVAL OF MINUTES**

The review of minutes was held after discussion of Agenda Item III.

Dr. Gordon made a motion to approve corrections to Page Three of the September 13, 2005 regular meeting minutes. Dr. Welch seconded the motion that passed unanimously.

The Board considered the Teleconference minutes of December 6, 2005 and noted two corrections as follows: a correction of the last name of Elizabeth Miles (from Burns) and a clarification that Dr. Lodi is board eligible in internal medicine. The reference to oncology will be removed. With these corrections, Dr. Gordon moved to approve the minutes as amended. Dr. Rowe seconded the motion that passed unanimously.

Dr. Gordon made a motion approving the Executive Session minutes of December 6, 2005. Dr. Rowe seconded and the motion passed unanimously.

## **III. REVIEW, CONSIDERATION, AND ACTION ON PHYSICIAN APPLICATIONS**

### **A. *Previous Applications***

#### **Jeffrey Rutgard, MD(H) License No. 156**

The Board reviewed the compliance status of Dr. Rutgard relative to a Consent Agreement and Order he signed at the time of his initial licensure. Dr. Rutgard was required to obtain continuing education hours in orthomolecular therapy and homeopathic medicine. In addition, status reports from Dr. Rutgard's previously approved practice supervisor (Dr. Robert Gear NMD) were to have been filed at 150 day intervals. No status reports have been received. Dr. Rutgard has requested that Dr. Dan Harper, MD(H) serve as his practice supervisor in as much as they both reside in San Diego, California.

Dr. Rutgard was present by telephone and responded to questions. The Board stated that they were unable to determine if he had met the terms of his Consent

Agreement and Order since no status reports had been received from his practice supervisor, Dr. Gear. The Board indicated that a letter must be received from Dr. Gear verifying the dates and number of hours Dr. Rutgard had served under Dr. Gear's supervision.

Dr. Welch made a motion to approve changing Dr. Rutgard's practice supervisor from Dr. Robert Gear, N.M.D. to Dr. Dan Harper, M.D., M.D.(H). Dr. Rowe seconded the motion which passed unanimously. Dr. Welch stated that the Board would require Dr. Harper's written correspondence that he has reviewed Dr. Rutgard's Consent Agreement and Order. It was the Board's expectation that reports from the practice supervisor would be received at 150 day intervals.

Assistant Attorney General Miles pointed out that Dr. Rutgard's request to present a research paper on orthomolecular therapy could not be determined at this date. The Board agreed that they would consider the request following presentation of the research by Dr. Rutgard. Board members made suggestions to Dr. Rutgard relative to inexpensive methods of obtaining continuing education credit.

They tabled action on Dr. Rutgard's request relative to receiving continuing education credit and tabled consideration of Dr. Rutgard's compliance with the tolling of the probationary aspects of his Consent Agreement and Order until receipt of a final report from the previous practice supervisor, Dr. Robert Gear.

***B. Homeopathic Medical Assistants***

**Marcus Greaves**

There was a brief discussion of Mr. Greaves application. Mrs. Springer stated that under A.A.C. R4-38-310(D) an applicant who is a previously licensed practitioner (in this case, a medical doctor in France) must appear with their supervisor for a Board interview. The matter was considered later in the meeting when Dr. Greaves and Dr. Linda Wright were present.

Following the interview with the applicant and his supervisor, Dr. Linda Wright, that included a reading of the supervisor's role described in A.A.C. R4-38-301(H) Dr. Gordon made a motion to approve Dr. Greaves' application as a homeopathic medical assistant. Dr. Rowe seconded the motion that passed unanimously.

**IV. REVIEW, CONSIDERATION AND ACTION REGARDING  
INVESTIGATIONS/COMPLAINTS**

***Initial Reviews***

**05-06 J.H. vs. Geoffrey Radoff M.D., M.D.(H)**

Dr. Radoff was present during the discussion with his attorney, Stephen Myers. He made a brief statement regarding some of the allegations made by J.H. He stated that although J.H. alleged that he diagnosed lupus, the diagnosis had already been made by a physician in California. Dr. Radoff reviewed the therapies provided to J.H. and went over the referrals he had recommended.

Dr. Schwengel questioned Mr. Myers' request for a review by an independent allopathic physician. Mr. Myers indicated that it was their intention to have a separate allopathic review of the case and request that it become a part of the official investigative file.

Dr. Rowe suggested the matter be tabled for two months to allow time for a complete homeopathic review to be prepared point by point.

Assistant Attorney General Miles stated that Dr. Radoff may obtain a separate allopathic report at his own expense and he may submit a letter to request it be entered into the investigative record. She noted the board should prepare a full homeopathic report of the case. Dr. Gordon agreed to review the medical record and prepare a homeopathic report. Mrs. Miles reminded the board that Dr. Gordon would recuse from the final vote in lieu of his role in the preparation of the homeopathic report.

Mrs. Springer was directed to subpoena J.H.'s medical records for the last ten years.

A motion was made by Dr. Welch to table the matter for further investigation. Mr. Farris seconded the motion that passed unanimously. 5-0

Mr. Myers made a request for the investigative records from the other physicians and Assistant Attorney General Miles stated that the records would be made available should the matter proceed to informal hearing.

\*At 10:40 a.m. the Board took a ten minute break\*

**06-04 A.L. (for Bashas Pharmacy) re: W. Gene Schroeder, MD(H)**

Dr. Welch noted the complaint had been referred to the Board from the Arizona Medical Board when the pharmacy had found that Dr. Schroeder no longer held an active medical license. From her review of the medical record the prescriptions were proper and she noted that Dr. Schroeder holds a valid DEA registration and his homeopathic medical license (MDH) is active and in good standing. The Board directed Mrs. Springer to send a letter to Bashas Pharmacy to educate them about the homeopathic medical license. There was additional discussion of Dr. Schroeder's health status.

Dr. Rowe made a motion dismissing the instant case noting no violation of law was found. Mr. Farris seconded the motion that passed unanimously.

Pursuant to A.R.S. §32-2934(A) Dr. Gordon made a motion to open a separate investigation relative to the physician's current health status. Dr. Rowe seconded the motion and agreed to interview Dr. Schroeder and prepare a report for board review. Motion passed unanimously. 5-0

**06-09 Murray Susser MD(H) Self Report California Action. Board review pursuant to A.R.S. §32-2933(18)**

Dr. Welch chaired this part of the meeting as Dr. Schwengel recused himself from the discussion. The board noted that Dr. Susser had appealed the California action to the California Superior Court. The appeal should be heard in April, 2006.

Dr. Welch inquired about the Board's obligations in considering actions taken in other states against board licensees. Assistant Attorney General Miles stated that the Board's obligation did not extend to re-adjudicating the matter but rather to look at whether or not the actions in the other state violated the Arizona homeopathic law.

Dr. Gordon made a motion to table the matter pending the outcome of the appeal. Dr. Rowe seconded the motion that passed with a majority vote. 4-0 and 1 recusal (Schwengel). Mrs. Springer was directed to continue with her investigation in obtaining additional information.

***Ongoing Reviews***

**05-22 J.E. vs. Alan Abromovitz M.D., M.D.(H)**

Mrs. Springer recapped the status of the complaint review and noted that Dr. Abromovitz had voluntarily revised his informed consent to include photographs of the types of procedures that the patient may receive during the therapy. She explained that the physician had not included additional language relevant to having a chaperone present in the office during the procedure.

Mr. Farris pointed out that the investigation had not uncovered any violations by the physician and that the inclusion of language relating to a chaperone was strictly voluntary. He made a motion to dismiss the complaint and directed that Mrs. Springer send a letter noting that no violations of law had been found but that the physician may want to consider advising patients that, if it is their choice, they may request that a chaperone be present during an examination. Dr. Gordon seconded the motion that passed unanimously. 5-0

**V. RULES, LEGISLATION, SUBSTANTIVE POLICY STATEMENTS**

1. Mrs. Springer discussed the status of the proposed rules relating to medical assistants A.A.C. R4-38-301 through R4-38-311. The Board urged her to provide draft language without strikeouts as the rule is currently proposed and to provide an outline of the problems that need to be addressed.

2. Mrs. Springer presented the proposed substantive policy statement prepared to address concerns brought out during the Sunset Review hearing. She recapped the statement that advises new applicants that a query will be run through the federal data banks (including the National Practitioner's Data Bank and the Healthcare Integrity and Protection Data Bank NPDB and HIPDB). She noted that existing licensees would have a query run every third year at the Data Bank. Dr.

Welch made a motion to accept the proposed policy statement. Dr. Gordon seconded the motion that passed unanimously.

3. The Board members discussed the Sunset Review Health Committee of Reference report and indicated that it is their desire to cooperate fully in addressing concerns brought out during the hearing. The Board agreed that Mrs. Springer should send a letter to the senate and house health committee chairmen re-capping the efforts the Board has already implemented to address the concerns.

#### **VI. REVIEW, CONSIDERATION, and ACTION ON PROFESSIONAL BUSINESS**

1. The Board discussed Dr. Gabriel Cousens' request that the board review information concerning the PAP-IMI device. They reviewed the information submitted by Dr. Cousens that stated the device had been in use in the European medical community for over ten years. Dr. Gordon made a motion directing Mrs. Springer send a letter to Dr. Cousens stating that based on the information presented the PAP-IMI is exempt from the definition of an experimental device and falls within the parameters of *AAC R4-38-19(1)*. Motion seconded by Dr. Rowe and passed unanimously.

2. The board discussed the maintenance of meeting tapes for five years (current year plus four) and Mrs. Springer stated she would inform the state records management center of the change on the board's records management schedule.

3. Assistant Attorney General Miles stated that the board can not require the mandatory attendance of applicants that have made application for a homeopathic medical assistant registration unless the board changes their rules to include the requirement.

4. The general discussion of the function and duty of board members was held at the beginning of the meeting.

#### **VII. REVIEW, DISCUSS AND ACTION REGARDING OTHER BUSINESS**

Mrs. Springer presented her financial report and indicated that board member per diem was now subject to the collection of FACA tax due to a federal ruling as a result of a recent state-wide audit. No additional cost savings measures were identified but she indicated that travel would be paid to out of county board members. Other cost saving measures for FY2006 may include reduced hours in April and part of May in an effort to remain within the FY06 appropriated amount.

#### **VIII. FUTURE AGENDA ITEMS**

Dr. Rowe requested that two discussions be placed on a future agenda:

- 1) fingerprinting
- 2) continuing status of medical assistant rules.

#### **IX. CALL TO THE PUBLIC**

No members of the public were present.

#### **X. ESTABLISHMENT OF FUTURE MEETING DATES**

None

**XI. CLOSE OF BUSINESS/ADJOURNMENT**

The meeting adjourned at 11:45 a.m. following a motion by Mr. Farris. Dr Gordon seconded the motion that passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on **March 14, 2006**.

Respectfully Submitted,

Christine Springer  
Executive Director